

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

CIVIL CASE NO. 07-12266

v.

ONE HUNDRED NINETY EIGHT
THOUSAND DOLLARS IN UNITED
STATES CURRENCY (\$198,000.00);
TWO THOUSAND AND TWENTY
DOLLARS IN UNITED STATES
CURRENCY (\$2020.00); and
FORTY-ONE THOUSAND FIVE
HUNDRED FORTY-THREE DOLLARS
IN UNITED STATES CURRENCY
(41,543.00).,

HONORABLE PAUL V. GADOLA
U.S. DISTRICT COURT

Defendants.

ORDER ACCEPTING AND ADOPTING THE REPORT AND RECOMMENDATION

Before the Court are Claimant Sami Ali Hassoun's Motion to Dismiss Complaint and the Report and Recommendation ("R&R") of United States Magistrate Judge R. Steven Whalen. In his Report and Recommendation, the Magistrate Judge recommended that the Court construe Claimant's motion as a summary judgment motion and that the Court grant a 30-day continuance pursuant to Federal Rule of Civil Procedure 56(f)(2) to conduct discovery. The Magistrate Judge also notified the parties that any objections to the Report and Recommendation must be filed within 10 days. Though neither party objected to the legal conclusion of the Magistrate Judge, Plaintiff objected to the 30-day period.

The Court's standard of review for a Magistrate Judge's Report and Recommendation

depends upon whether a party files objections. If a party does not object to the Report and Recommendation, the Court does not need to conduct a review by any standard. *See Lardie v. Birkett*, 221 F. Supp. 2d 806, 807 (E.D. Mich. 2002) (Gadola, J.). As the Supreme Court observed, “[i]t does not appear that Congress intended to require district court review of a magistrate's factual or legal conclusions, under a de novo or any other standard, when neither party objects to those findings.” *Thomas v. Arn*, 474 U.S. 140, 150 (1985).

Here, neither party objected to the Magistrate Judge’s conclusion that Claimant’s Motion to Dismiss Complaint should be construed as a summary judgment motion. Consequently, the Court accepts and adopts that portion of the Magistrate Judge’s Report and Recommendation as the opinion of this Court.

The Magistrate Judge also recommended that the Court grant a 30-day continuance in order to permit discovery. Plaintiff objected to that portion of the Report and Recommendation and asked the Court to permit a discovery period longer than 30 days. Claimant filed a response to Plaintiff’s objection in which he argued that a 30-day period was sufficient.

After considering the circumstances of this case, the Court will sustain Plaintiff’s objection and will grant a period of sixty (60) days for the parties to conduct additional discovery. Furthermore, for purposes of docket efficiency and in order to permit Claimant to argue his case based on the benefit of this additional discovery, the Court will deny Claimant’s Motion to Dismiss Complaint without prejudice and will permit Claimant to file a motion for summary judgment following the close of discovery. The time for a response and reply will proceed as set forth in Local Rule 7.1.

ACCORDINGLY, IT IS HEREBY ORDERED that the Report and Recommendation [docket entry #25] is **ACCEPTED and ADOPTED** as the opinion of this Court in a manner not inconsistent with this Order. The parties are granted **sixty (60) days** from the date of this Order for additional discovery.

IT IS FURTHER ORDERED that Claimant's Motion to Dismiss Complaint [docket entry #13] is **DENIED WITHOUT PREJUDICE**. Claimant may file a motion for summary judgment within **seventy-five (75) days** from the date of this Order.

SO ORDERED.

Dated: July 2, 2008

s/Paul V. Gadola
HONORABLE PAUL V. GADOLA
UNITED STATES DISTRICT JUDGE

Certificate of Service

I hereby certify that on 7/2/08, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following: Julie A. Beck; Matthew J. Lund; Elias Muawad, and I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: _____.

s/Ruth A. Brissaud
Ruth A. Brissaud, Case Manager
(810) 341-7845